IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 16549 of 2007(T)

PETITIONER:

JAYASANKAR C.U., SENIOR ASSISTANT,
LIAISON OFFICE, KERALA STATE ELECTRICITY BOARD,
KOCHI.

BY ADV. SRI.R.GIRISH.

RESPONDENTS:
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1. **THE KERALA STATE ELECTRICITY BOARD,**
   VAIDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM
   REPRESENTED BY ITS SECRETARY.

2. **THE CHIEF ENGINEER (HRM), KERALA STATE**
   ELECTRICITY BOARD, VAIDHYUTHI BHAVAN, PATTOM,
   THIRUVANANTHAPURAM.

3. **THE CHIEF INTERNAL AUDITOR,**
   KERALA STATE ELECTRICITY BOARD,
   VAIDHYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI. K.S. ANIL, SC, KSEB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO.16549 OF 2007-T

JUDGMENT

The petitioner is an employee of the 1st respondent Electricity Board.. This writ petition is filed by him, challenging Ext.P3 order passed by the Board dispensing with the system of giving re-fixation on promotion/grade promotion, in the light of Rule 28A and Rule 37(a) of Part I, K.S.R. As per Ext.P1 order dated 10.12.2002, the K.S.E.B has taken a decision that the amendments introduced to K.S.R and K.S. & S.S. R will automatically apply to its employees, unless decided otherwise and except in cases where they are governed by special regulations of the Board. The petitioner submits, the decision in Ext.P3 concerning re-fixation runs counter to the provisions of K.S.R., which are automatically applicable to the employees of the Board. The State Government has introduced Ext.P2 amendments to Rule 28A and Rule 37(a) of Part I, K.S.R. According to the petitioner, the same should have been automatically applied to the employees of the Board. But, the Board has chosen to modify those Rules. Therefore, it is submitted that the same is illegal.

2. The Kerala Service Rules and the Kerala State and Subordinate

Services Rules are Rules framed by the Government under Section 2 of the Kerala Public Services Act or deemed to be framed under that section. They will apply only to Government servants. The K.S.E.B., invoking its regulation making power under Section 79 of the Electricity Supply Act, 1948, has adopted those Rules. Ext.P1 is also a resolution passed by the Board under Section 79 of the Electricity Supply Act. But, the said resolution specifically says that automatic application is subject to any amendments made by the Board. By Ext.P3, the K.S.E.B has decided to dispense with the benefit of re-fixation granted on promotion/grade promotion. The same is within jurisdiction. Further, Exts.P1 and P3 are issued exercising the regulation making power under Section 79 of the Electricity Supply Act. The earlier regulation will not survive, if the Board frames a subsequent regulation, which is at variance with the earlier one. So, the contention of the petitioner raised against Ext.P3, relying on Ext.P1 cannot be accepted.

In the result, the writ petition fails and it is dismissed.

31st May, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/